

REMARKS/ARGUMENTS

Favorable reconsideration of this application as presently amended and in light of the following discussion is respectfully requested.

Claims 1-10 are presently active.

In the outstanding Office Action, Claims 1-2 were rejected under 35 U.S.C. § 102(e) as being anticipated by Schwinghammer et al (U.S. Pat. No. 5,953,661). Claims 3-10 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Schwinghammer et al in view of Tanoue (U.S. Pat. No. 6,041,238).

Firstly, it is respectfully submitted that the Office Action misconstrues that Schwinghammer et al disclose at col. 8, line 63, to col. 9, line 5 the claimed storing and managing step of Claim 1, as asserted in the outstanding Office Action.¹ This cited part of Schwinghammer et al only describes the measurement of the received signal strength and carrier-to-interference ratio (CIR) at the mobile station, and only describes the subsequent reporting of the measurement results from the mobile station to the base station. This part of Schwinghammer et al provides no teaching or disclosure regarding a radio channel control device for judging whether an assignment of a frequency/radio channel is possible or not according to the receiving level at the mobile station. Moreover, this part of Schwinghammer et al fails to disclose a table, much less the recited table in Claim 1 for storing in correspondence to each value that can be taken by the receiving level of the measurement channel an optimal carrier-to-interference ratio (CIR). Indeed, Applicants respectfully submit that Schwinghammer et al fail to disclose a teaching for storing and managing an optimal CIR to be used as threshold in judging whether the assignment of the frequency/radio channel is possible or not, in correspondence to each value that can be taken

¹ Office Action, page 2, lines 22-27.

by the receiving level at the mobile station, in a table in advance, at the radio channel control device, as defined in Claim 1.

Secondly, it is also respectfully submitted that the Office Action misconstrues that Schwinghammer et al disclose in col. 8, line 63, to col. 9, line 5, (i.e., the same portion as already discussed above) the claimed adaptively selecting and judging step of Claim 1.² As discussed previously, this part of Schwinghammer et al only describes the measurement of the received signal strength and CIR at the mobile station, and only describes the subsequent reporting of the measurement results from the mobile station to the base station. Applicants submit that this part of Schwinghammer et al has no teaching or disclosure regarding a radio channel control device for judging whether an assignment of a frequency/radio channel is possible or not according to the receiving level at the mobile station. Moreover, as noted above, this part of Schwinghammer et al fails to disclose a table, and thus Schwinghammer et al fail to disclose a teaching for adaptively selecting the optimal CIR from the table, and judging whether the assignment of the frequency/radio channel is possible or not according to the selected CIR, at the radio channel control device, as defined in Claim 1. ⁴⁽³²⁻³⁴⁾

M.P.E.P. § 2131 requires for anticipation that each and every feature of the claimed invention must be shown. Thus, with no teachings or disclosure in Schwinghammer et al for the above noted features, it is respectfully submitted that Claim 1 and Claim 2 which depends from Claim 1 are not anticipated by Schwinghammer et al.

Regarding independent Claim 3, while the Office Action acknowledges that Schwinghammer et al fail to disclose a table and a judgement unit, which correspond to the storing and managing step and the adaptively selecting step discussed above, the Office Action misconstrues that Tanoue discloses these features as elements 104 and 105,

² Office Action, page 2, line 27, to page 3, line 8.

respectively.³ Element 104 of Tanoue is a priority table which stores a priority value for each channel (see col. 3 lines 3-6), which differs from the claimed table for storing and managing an optimal CIR to be used as a threshold in judging whether the assignment of the frequency/radio channel is possible or not, in correspondence to each value that can be taken by the receiving level at the mobile station, as defined by independent Claim 3.

Moreover, element 105 of Tanoue is an interference detection criteria table that contains the relationship between received signal levels and interference detection criteria so as to search for an interference detection criterion corresponding to a received signal level (see col. 3, lines 7-11). As such, element 105 of Tanoue is only a table and differs from the claimed judgement unit which adaptively selects the optimal CIR from the table and judges whether the assignment of the frequency/radio channel is possible or not according to the selected CIR, as defined by independent Claim 3.

For these reasons, it is respectfully submitted that Claim 3 and Claim 4 which depends from Claim 3 are believed to patentably define over the applied prior art of Schwinghammer et al and Tanoue.

Next, regarding the independent Claim 5, it is respectfully submitted that the Office Action misconstrues that Schwinghammer et al disclose in col. 4, lines 23-34, the claimed judging step of Claim 5. As previously noted, this part of Schwinghammer et al only describes the measurement of the received signal strength and CIR at the mobile station, and only describes the subsequent reporting of the measurement results from the mobile station to the base station in order to indicate an unstable or undesirable situation.

This part of Schwinghammer et al provides no teaching for a judgement to be made at the radio channel control device, and fails to disclose a teaching for judging whether there is another mobile station that is carrying out communication by a radio channel to be assigned

³ Office Action, page 4, line 21, to page 5, line 7.

to one mobile station or not, at the radio channel control device, as defined in Claim 5.

Moreover, this part of Schwinghammer et al provides no teaching for a comparison operation at the radio channel control device, and fails to disclose a teaching for selecting an unused assignment candidate radio channel while comparing a control frequency receiving level in a radio zone used for communication at another mobile station and the receiving level of the level measurement channel at one mobile station, and judging an assignment of a radio channel to one mobile station according to a comparison result, as defined in Claim 5.

Thus, for these reasons, it is respectfully submitted that Claim 5 and Claims 6-7 which depends from Claim 5 are believed to patentably define over the applied prior art of Schwinghammer et al and Tanoue.

For similar reasons to Claim 5, corresponding device Claims 8-10 are likewise believed to patentably define over the applied prior art of Schwinghammer et al and Tanoue.

Hence, it is respectfully submitted that Claims 1-10 patentably define over the prior art of record.

Application No. 09/647,920
Reply to Office Action of July 10, 2003

Consequently, in light of the above discussions, the outstanding grounds for rejection are believed to have been overcome. The application is believed to be in condition for formal allowance. An early and favorable action to that effect is respectfully requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



Customer Number
22850

Gregory J. Maier
Attorney of Record
Registration No. 25,599
Ronald A. Rudder, PhD
Registration No. 45,618

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 08/03)
GJM:RAR:clh

I:\ATTY\RAR\AMENDMENTS\198399US\RFR.DOC